

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB258

Hearing Date: Thursday March 19, 2009
Committee On: Judiciary
Introducer: Harms
One Liner: Change and provide penalties for minors in possession of alcoholic liquor

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert

Nay:

Absent:

Present Not Voting:

Proponents:

Sen. John Harms
Hobert Rupe
Allyson Bennett
Benjamin Rice
Lauren Cantrell
Katherine Cole
Emma Bartek
Katie Kangas
Sandra Kasch
Derek Weimer
Daniel Noble, MD
Diane Riibe
Marty Conboy

Representing:

Introducer
Nebraska Liquor Control Commission
Partners 4 Otoe County
Partners 4 Otoe County
self
self
self
Project Extra Mile; self
MADD (Mothers Against Drunk Driving)
Scotts Bluff County Attorneys Office
Nebraska Medical Association
Project Extra Mile
Project Extra Mile

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 258 would amend 53-180.05 which defines the penalty provisions for a violation of a "minor in possession of alcohol" contained in section 53-180.02, by implementing a tiered penalty structure based on the age of the violator. The age based penalty structure would be as follows:

If person is sixteen to twenty years old and has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

- For a first offense, the person is guilty of a Class III misdemeanor, shall have their license or permits impounded between 60-90 days, and attend an alcohol education class.
- For a second offense, the person is guilty of a Class III misdemeanor, shall have their license or permits impounded

for not less than six months, complete between 20-40 hours of community service and attend an alcohol education class.

- For a third offense, the person is guilty of a Class II misdemeanor, shall have their license or permit impounded for not less than one year, complete at a minimum 60 hours of community service and submit to an alcohol assessment by a licensed alcohol and drug counselor.

- For the fourth and subsequent offenses, the person is guilty of a Class I misdemeanor, shall have their license or permits impounded for not less than two years, serve no fewer than five and no more than fifteen days in jail and the person must submit to an alcohol assessment by a licensed alcohol and drug counselor.

If the person is younger than sixteen years old and has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

- For a first offense, the person is guilty of a Class III misdemeanor, shall have their permit impounded for six months, shall be prohibited from obtaining any other permit or license to drive for six months, and be required to attend an alcohol education class.

- For a second offense, the person is guilty of a Class III misdemeanor, shall have their permit impounded for twelve months, shall be prohibited from obtaining any other permit or license to drive for twelve months, and be required to attend an alcohol education class.

- For a third or subsequent offense, the person is guilty of a Class II misdemeanor, shall have their permit impounded for twenty-four months, shall be prohibited from obtaining any other permit or license to drive for twenty-four months, and the person must submit to an alcohol assessment by a licensed alcohol and drug counselor.

If the person is younger than twenty-one years old and does not have a permit or license issued under the Motor Vehicle Operator's License Act:

- For a first offense, the person is guilty of a Class III misdemeanor, shall be prohibited from obtaining a permit or any license for six months and be required to attend an alcohol education class.

- For a second offense, the person is guilty of a Class III misdemeanor, shall be prohibited from obtaining a permit or any license for twelve months and be required to attend an alcohol education class.

- For a third or subsequent offense, the person is guilty of a Class II misdemeanor, shall be prohibited from obtaining a permit or license to drive for twenty-four months, and the person must submit to an alcohol assessment by a licensed alcohol and drug counselor.

Explanation of amendments:

AM 1803 would make the following changes to LB 258:

1. Would provide that persons 18 and younger would face the following penalties for an adjudication or conviction of 53-180.02 if the have one or more licenses issued under the Motor Vehicle Operator's License Act:

- For a first offense, such person is guilty of a class III misdemeanor, shall have their license impounded for 30 days, and shall be required to attend an alcohol education class.

- For a second offense, such person is guilty of a class III misdemeanor, shall have their license or permit impounded for 90 days, required to complete no fewer than 20 and no more than 40 hours of community service, and shall be required to attend an alcohol education class.

- For a third or subsequent offense, such person is guilty of a class III misdemeanor, shall have their license or permit impounded for twelve months, be required to complete no fewer than 60 hours of community service, shall be required to attend an alcohol education class and submit to an alcohol assessment by a licensed alcohol and drug counselor.

2. Would provide that persons 18 and younger would face the following penalties for an adjudication or conviction of 53-180.02 if the individual does not have a permit or license issued under the Motor Vehicle Operator's License Act:

- For a first offense, such person is guilty of a class III misdemeanor, shall be prohibited from obtaining a license or

permit for 30 days after otherwise being able to obtain such permit or license, and shall be required to attend an alcohol education class.

- For a second offense, such person is guilty of a class III misdemeanor, shall be prohibited from obtaining a license or permit for 90 days after otherwise being able to obtain such permit or license, required to complete no fewer than 20 and no more than 40 hours of community service and shall be required to attend an alcohol education class.

- For a third or subsequent offense, such person is guilty of a class III misdemeanor, shall be prohibited from obtaining a license or permit for twelve months after otherwise being able to obtain such permit or license, be required to complete no fewer than 60 hours of community service, shall be required to attend an alcohol education class, and submit to an alcohol assessment by a licensed alcohol and drug counselor.

3. Would provide that a copy of an abstract of the court's conviction or adjudication be transmitted to the Director of Motor vehicles pursuant to sections 60-497.01 to 60-497.04.

4. AM 1788 would leave existing Minor in Possession penalties provided under 53-180.02 in place for those individuals 19 and 20 years old.

Brad Ashford, Chairperson